THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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DATED: 14-11-2005

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WRIT PETITION No.20351 OF 2005

Between:

T.Malla Reddy . . .Petitioner

And

Savlyapuram Primary Agrl.Co.op. Society

and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.20351 OF 2005

O R D E R:

The petitioner was employed as Secretary in the Primary Agricultural Cooperative Society, Potluru (for short "the society"), the second respondent herein. Through proceedings, dated 06-06-2005 (wrongly written as 06-06-2004 in the impugned proceedings), the
person-in-charge of the second respondent, terminated the services of the

petitioner on the ground that he remained absent with effect from 06-03-2005 and did not respond to a show cause notice, dated 21-05-2005. He challenges the same. It is urged that he was absent from 06-03-2005 to 18-05-2005 on account of sickness and that in fact, he has applied for leave. He contends that no show cause notice was served upon him.

Heard the learned counsel for the petitioner and learned Government Pleader.

Notice before admission was ordered by this Court on 15-09-2005 and the petitioner was permitted to take out notices to the respondents. The record discloses that all the respondents were served and in particular, the second respondent received the notice on 28-09-2005. The matter has been adjourned on several occasions to enable the second respondent to put forward its contentions. However, there is no response from them.

In the order, dated 06-06-2005, it was stated that a show cause notice, dated 21-05-2005, was issued to the petitioner. It was clearly stated that the postal cover was returned without service. It is not stated as to what other steps have been taken to serve the notice on the petitioner. The impugned order was passed on the ground that the petitioner did not submit his explanation. When the notice was not served, the question of the petitioner submitting any explanation does not arise.

Even assuming that the show cause notice was served on the petitioner and failed to submit his explanation, the second respondent was under obligation to conduct departmental enquiry before removing the petitioner from service. Such a step was not undertaken. On this short ground, the impugned order deserves to be set aside, and it is set aside accordingly.

Strictly speaking, the petitioner is entitled to be reinstated forthwith. However, having regard to the nature of the allegations, and that the impugned order is set aside on technical grounds, it is left open to the second respondent to issue show cause notice, within a period of four weeks from the date of receipt of a copy of this order. It shall also be open to them, to take a decision as to whether the petitioner be reinstated into service, or kept under suspension pending enquiry, duly paying the subsistence allowance. If no such steps are undertaken, the petitioner shall be entitled to be reinstated after expiry of four

weeks. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

14th NOVEMBER, 2005.

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